

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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JERRY T. RAY,	)	
	)	DOCKET NO.: PT-2003-72
Appellant,	)	
	)	FACTUAL BACKGROUND,
-vs-	)	CONCLUSIONS OF LAW,
	)	ORDER and OPPORTUNITY
	)	<u>FOR JUDICIAL REVIEW</u>
THE DEPARTMENT OF REVENUE	)	
OF THE STATE OF MONTANA,	)	
	)	
Respondent.	)	

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The above-entitled appeal was heard on October 27, 2004, in Billings, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (Board). The notice of the hearing was duly given as required by law. The taxpayer, Jerry T. Ray, appeared on his behalf. The Department of Revenue (DOR), was represented by Commercial Appraiser Ron Halvorson; Appraisers Kate Russell and Genia Mollett; and Manager Sheri Dede.

The duty of this Board is to determine the appropriate market value for the property based on a preponderance of the evidence. By statute (15-2-301, MCA) this Board may affirm, reverse or modify any decision rendered by the county tax appeal board. Testimony was taken from both the

taxpayer and the Department of Revenue, and exhibits from both parties were received.

This Board finds and concludes that the taxpayer failed to support the contention that the DOR had erred in its appraisal and, therefore, denies the appeal. The decision of the Yellowstone County Tax Appeal Board is affirmed.

#### **FACTUAL BACKGROUND**

1. Due, proper, and sufficient notice was given of this matter, the hearing hereon, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The subject property is described as follows:

The residential improvements located upon Tract 2B, Certificate of Survey 1952, Corr. Am. Tract 2 in S2NW, County of Yellowstone, State of Montana (Assessor number: 000D04703A).

3. For tax year 2003, the Department of Revenue appraised the subject land at a value of \$15,991 and the subject residence at a value of \$373,380.

4. The taxpayer filed an appeal with the Yellowstone County Tax Appeal Board on October 7, 2003, seeking an unspecified reduction in value. The following reason was cited for the appeal:

**A vindictive appraiser GENIA MOLLETT.**

5. In its December 20, 2003 decision, the county board denied the taxpayer's appeal, stating:

**It is the opinion of the Board the Department of Revenue's appraisal is fair & equitable.**

6. The taxpayer then appealed that decision to this Board on January 18, 2004, citing the following reason for appeal:

**Department agent GENIA MOLLETT did not measure my house (she said walked it) and therefore the sq footage is incorrect.**

**TAXPAYER'S CONTENTIONS**

Mr. Ray is not disputing the DOR land value of \$15,991, which the DOR has classified as agricultural for the 21.39 acres.

Mr. Ray took exception with several aspects of the DOR's appraisal of his home: an increase from the prior cycle from \$353,910 to \$373,380 (as a result of the filing of an AB26 form for property review); a difference of approximately \$10,000 in value, under the cost approach, in view of differences of opinion regarding measurement of the home. He also disputed the DOR's assessment regarding the following items:

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<u>ITEM DESCRIPTION</u>	<u>DOR VALUE</u>	<u>TAXPAYER OPINION OF VALUE</u>
2 air conditioners	\$4,417	\$1,200 each or \$2,400 total
Finished garage	\$19,700	\$9,000
288 square foot porch	\$5,700	\$1,500
Front porch	\$2,400	\$2,000

Regarding the home's built-in appliances, he stated that he is being assessed for a security system he does not have and feels these appliances are valued too high at \$4,800. \$2,400 would be a better number for the wall oven, range, dishwasher, and intercom system. The DOR considers the home's condition to be very good. Mr. Ray discussed several problems with the roof and the siding and estimated a \$50,000 replacement cost. The home has experienced settling, the carpet and appliances are 12 years old and need replacement.

#### **DOR'S CONTENTIONS**

DOR Exhibit A contains photographs of the subject residence and its property record card. The DOR has assigned a quality grade of seven to the home.

Ms. Mollett stated that Mr. Ray filed an AB 26 form for property review on this property in 1993. As a result of an

on-site review of the property, Ms. Mollett discovered that the DOR was erroneously assessing Mr. Ray's home as a one and a half story rather than a two story. That correction was made. The DOR had also assessed the home's driveway as asphalt rather than concrete and made that change. Errors were discovered in the square footage measurements and those were corrected to match the DOR sketch of the home. These changes resulted in an increase in value.

DOR Exhibit B is a copy of the breakdown of the DOR cost approach to value for this home, resulting in a value of \$389,371:

	Acreage	Extension
A. Land	21.39	\$15,991 ** Agricultural Value
B. Residential improvement costs		
<u>Base Costs</u>		
First floor living	2,720	\$50.66 \$137,800
2 <sup>nd</sup> floor living	1,025	\$37.47 34,410
Attic living 40% of 1680	672	<u>\$14.85</u> 9,980
Above grade square foot living area	4,417	
		<u>\$186,190</u> Subtotal
<u>Cost Adjustments</u>		
Heating/AC	Air Conditioning	4,417 \$9,000+
Plumbing	4 additional fixtures	2,808+
Additions	Finished garage	1,113 19,700+
	Open Porch	288 5,700+
	Open Porch	124 2,400+
	Ornamental Trim	235 2,400+
<u>Other Features</u>		
Prefab Fireplace		\$1,200+
Built In Appliances	BD,BO,BR, IC, SS 2GO	<u>\$4,800+</u>
		<u>\$48,008</u> Subtotal
		\$234,198

Grade Factor	Very Good	1.52	\$355,980 RCN
Depreciation	Observed Age 10 years	4%	<u>\$ 14,239-</u>
			<u>\$341,171</u> Subtotal
Local Index		99%	\$338,323
ECF	Economic Condition Factor	1.05	<u>\$355,240</u> RCNLD

C. Other Building and Yard Improvements

			<u>RCNLD</u>
Concrete Driveway	3,108		\$2,790
Pole Barn	2,560		<u>\$15,350</u>
			<u>\$18,140</u> RCNLD

D. Summary

Land	\$15,991
House	\$355,240
OBY's	<u>18,140</u>
	<u>\$389,371</u>

DOR Exhibit D is a copy of Section 15-7-139 (1) (2),

MCA, which states that:

**15-7-139. Requirements for entry on property by property valuation staff employed by department - authority to estimate value of property not entered -- rules.** (1) Subject to the conditions and restriction of this section the provisions of 45-6-203 do not apply to property valuation staff employed by the department and acting within the course and scope of the employees' official duties. (2) A person qualified under subsection (1) may enter private land to appraiser or audit property for property tax purposes.

Ms. Mollett addressed Mr. Ray's contention that the DOR square footage measurements were erroneous. Ms. Mollett testified that she and another appraiser visited the property on October 14, 2004, prior to this hearing,

and re-measured the home's exterior. Her testimony was that "we measured it down to the inch and I came up with just a couple minor changes in the back of the home . . . they were same exact sketch that we have had since 1992." Ms. Mollett speculates that the only difference may be in the measurement of the interior garage wall, which she wasn't able to enter. On October 19, 2004, she called Mr. Ray and asked if they could meet at the home to determine where the inconsistencies might lie. Mr. Ray denied her access.

The land value has never really been in contention. The DOR has appraised it as agricultural land. The total improvement value, \$389,371, equates to a per square foot value of \$84.53, which Ms. Mollett believes is a very fair, if not low, value for a home of this quality.

#### **BOARD'S DISCUSSION**

The Board finds that the taxpayer failed to satisfactorily demonstrate that the DOR appraisal was erroneous. The DOR has demonstrated that it has performed its appraisal in accordance with statute and administrative rule. Mr. Ray disputed many aspects of the appraisal, but did not provide any documentation, other than his opinion,

for his value requests. In addition, Mr. Ray has denied the DOR access to the interior of the home. Such a visit might help address differences of opinion regarding quality grade, measurements, etc.

#### **CONCLUSION OF LAW**

1. This Board has jurisdiction of the matter under appeal pursuant Section 15-2-301, MCA.
2. §15-8-111 MCA. Assessment - market value standard - exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.
3. The appeal of the taxpayer is denied and the decision of the Yellowstone County Tax Appeal Board is affirmed.

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**ORDER**

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Yellowstone County by the local Department of Revenue office at a land value of \$15,991 and at an improvement value of \$373,380, as affirmed by the Yellowstone County Tax Appeal Board. However, the DOR is hereby ordered to remove the assessment for a security system, valued at \$1,300, which the taxpayer has stated that he does not have.

Dated this 25th day of February, 2005.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

( S E A L )

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GREGORY A. THORNQUIST, Chairman

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JERE ANN NELSON, Member

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JOE R. ROBERTS, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 25th day of February, 2005, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Jerry T. Ray  
711 Central Avenue  
Suite 108  
Billings, Montana 59102

Office of Legal Affairs  
Department of Revenue  
Mitchell Building  
Helena, MT 59620

Ms. Dorothy Thompson  
Property Tax Assessment  
Department of Revenue  
Mitchell Building  
Helena, Montana 59620

Mr. Elwood Hannah, Chairman  
Yellowstone County Tax Appeal Board  
2216 George Street  
Billings, MT. 59102

Yellowstone County Appraisal Office  
175 N. 27<sup>th</sup> St, Suite 1400  
Billings, MT. 59107-5013

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Donna Eubank  
Paralegal